

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, April 1, 2005

Division Two

A104689 – Nicole Taus v. Elizabeth Loftus et al.

The September 18 order is vacated insofar as it denies the motion to strike (1) the first cause of action for negligent infliction of emotional distress as alleged against all appellants; and (2) the second cause of action for invasion of privacy as alleged against appellant Tavis. This case is remanded to the trial court for further proceedings consistent with this opinion. The parties shall bear their own costs on appeal. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication)

Division Four

A109442 – Foundation Aiding the Elderly v. The Superior Court of Alameda County; Covenant Care California, Inc. et al., R.P.I.

Let a peremptory writ of mandate issue directing respondent superior court to vacate its February 17, 2005 order granting Covenant Care's motion for judgment on the pleadings against FATE in this action. Respondent shall issue a new order denying the motion. To permit Covenant Care an opportunity for immediate review, this decision shall be final in this court upon filing. (Cal. Rules of Court, rules 24(b)(3), 28(e)(1).) Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

A108695 – The People v. Kevin Anthony Reed.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication)

Tuesday, April 05, 2005

Division One

A107600 – The People v. William Arthur Heinze.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

A104563 – The People v. Gilbert Layson.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

A104465 – Don Carney v. San Francisco Unified School District et al.

The judgment is affirmed. Carney is to pay costs. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

Division Four

A107847 – In re Jennifer L., a Person Coming Under the Juvenile Court Law. The People v. Jennifer L.

The dispositional order is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, April 5, 2005

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Kay, P.J., Sepulveda, J., and Rivera, J. Channing Hoo, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A106464 People
 v.
 Javonee L.
Cause called. Michael E. Banister, counsel for respondent, is present. Cause continued to after the next cause.

At this point, the Court reconstituted itself to include Kay, P.J., Reardon, J., and Sepulveda, J.

A106746 Andrey Todorov
 v.
 Regents of the University of California
Cause called. Hunter Pyle argued for appellant Todorov. Michael Goldstein argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include Kay, P.J., Sepulveda, J., and Rivera, J.

A106464 People
 v.
 Javonee L.
Cause called. Jeffrey A. Needelman argued for appellant Javonee L. Michael E. Banister argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A103898 People
 v.
 Eddie Christian Simon
Cause called. Marylou Hilberg argued for appellant Simon. Allan Yannow argued for respondent. Cause submitted.

A105488

Borders Online, Inc.

v.

State Board of Equalization

Cause called. Scott Brandman argued for appellant Borders. David Lew argued for respondent. Cause submitted.

Court adjourned at 11:08 a.m.

Tuesday, April 05, 2005 (continued)

Division Five

**A104903 – Hayward Area Planning Association et al., v. City of Hayward et al.;
Hayward 1900, Inc., R.P.I.**

The September 29, 2003 order permitting Hayward 1900 to file a revised cost bill is reversed. Hayward 1900 shall recover none of its costs of preparing the administrative record. Plaintiffs are awarded their costs on appeal. Gemello, J. We Concur: Jones, P.J., Simons, J. (Certified for Publication)

Wednesday, April 6, 2005

Division One

A103072 – The People v. Gordon Gantz.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

A106461 – Scott W. Bray v. California Department of Transportation.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

A107918 and A108822 – Lila Chee, M.D., v. Amanda Goldt Property Management, et al.

By the Court: Appellant's motion to consolidate the above-referenced appeals is granted for purposes of briefing, oral argument and decision. Both case numbers shall appear on all documents filed in this Court. Appellant's consolidated opening brief is due June 20, 2005. Marchiano, P.J.

A105988 – Henry L. Garcia v. Prentice & Scott, L.L.P., et al.

The judgment in favor of P&S is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

Division Two

A099098 – The People v. Michael Wayne Hunter.

The judgment is affirmed. Ruvolo, J. I Concur: Lambden, J. (See concurring opinion by Kline, P.J.) (Not for Publication)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, April 6, 2005

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuinness, P.J., Corrigan, J., Parrilli, J., Pollak J., and F. Abad, Deputy Clerk.

Justice McGuinness announced the panel for the first case on calendar consisted of Justice Parrilli, Justice Pollak, and himself.

A104979 The People,
 v.
 Freeman Griffin.
Cause called and argued by Jonathan Soglin, counsel for appellant, and John Vance, counsel for respondent. Cause ordered submitted.

Justice Pollak left the bench.

A108488 International Federation of Professional and Technical Engineers, et al.,
 v.
 The Superior Court of Alameda County,
 Contra Costa Newspapers, et al.
Cause called and argued by Duane Reno, counsel for petitioners Int'l Federation of Professional and Technical Engineers, Alison Berry-Wilkinson, counsel for petitioner Oakland Police Officers' Association, and Karl Olson, counsel for real party in interest Contra Costa Newspapers. Cause ordered submitted.

A106760 City and County of San Francisco, et al.,
 v.
 Proposition 22 Legal Defense and Education Fund.
Cause called and argued by Andrew Pugno, counsel for appellant, Stephen Bomse, counsel for respondents Lancy Woo, and Therese Stewart, counsel for respondent City and County of San Francisco. Cause ordered submitted.

Justice McGuinness left the bench and Justice Pollak joined the bench.

A104677 Angelica DeBode.,
 v.
 Navid Daghigh Bahrami, et al.
 Cause called and argued by Angelica DeBode, appellant in propria persona, and
 Steven Barrabee, counsel for respondents. Cause ordered submitted.

Court adjourned.

Thursday, April 07, 2005

Division One

A107155 – Leslee Tank v. Eric Barney.

The summary judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J.
(Not for Publication)

A103711 – Jerry Gordon et al., v. Boas International Motors.

The judgment, including the award of attorney fees, is reversed. San Francisco Honda is awarded its appellate costs. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, April 7, 2005

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Swager, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

A107188 Elso Legey, et al.,
v.
Terry Curl, et al.
Cause called and argued by Thomas J. Becker, counsel for appellant, via teleconference, and John C. Davis, counsel for respondent, via teleconference. Cause ordered submitted.

A107442 Victor Johnson,
v.
Cahill Contractors, Inc.
Cause called and argued by David L. Fiol, counsel for appellant, and W. Eric Blumhardt, counsel for respondent. Cause ordered submitted.

A099649 Patty Shugart,
v.
OEA, Inc.
Cause called and argued by Daven G. Lowhurst, counsel for appellant/ cross-respondent OEA, Inc., and Cynthia McGuinn, counsel for respondent/cross-appellant Shugart. Cause ordered submitted.

Presiding Justice Marchiano left the bench after this case. Justice Stein joined the bench and presided over the remainder of the morning session.

A106680 The People,
v.
Michael John McCartney.
Cause called and argued by David Sundelson, counsel for appellant, and Ann Wathen, counsel for respondent. Cause ordered submitted.

A104926 WSM Enterprises, Inc.

v.

West Coast Property Management Co., et al.

Cause called and argued by Edward Haas, counsel for appellant WSM Enterprises, Inc.; Mark Hudak, counsel for respondent/cross-appellant Ricossa; David Paul Wasserman, counsel for respondent/cross-appellant West Coast Property Management Co.; and Robert H. Wright, counsel for cross-respondent WSM Enterprises, Inc. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, April 7, 2005

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Swager, J.; and I. Calanoc, Deputy Clerk.

- A105999 The People,
 v.
 Jon Montonen.
Cause called and argued by Carlo Andreani, counsel for appellant, and Jeremy Freidlander, counsel for respondent. Cause ordered submitted.
- A106480 In re the Marriage of Patricia and James Begier.
 James A. Begier,
 v.
 Patricia M. Begier.
Cause called and argued by William Marini, counsel for appellant, and Jean Greenbaum, counsel for respondent. Cause ordered submitted.
- A103892 William Parker,
A106864 v.
 Terri Parker.
Cause called and argued by David Olick, counsel for appellant, and David Golde, counsel for respondent. Cause ordered submitted.
- A101681 Susan David,
A104110 v.
A104111 Wendy Alter Hermann.
A104693 Cause called and argued by Jewell Hargleroad, counsel for appellant, and Robert White, counsel for respondent. Cause ordered submitted.

Court recessed until Friday, April 8, 2005.

Thursday, April 7, 2005 (continued)

Division Two

A104552 – Eileen Dorin v. Bruce Weitzen et al.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication)

Division Five

A105276 – State of California, Franchise Tax Board v. Ronald E. Bushnell (Deceased); Carol L. Slater, Aggrieved Party.

A105448 – Vincent Lera & Scott B. Mendonsa v. Carol Slater.

A105960 – Carol Slater v. County of Mendocino et al.

In the tort action, Mendocino Superior Court number CV 02 88444, the court's order sustaining the demurrer to the cause of action under 28 United States Code section 1983 is reversed. In all other respects, the order is affirmed. In the quiet title action, Mendocino Superior Court number CV 03 89596, the court's decision rejecting Slater's motion to set aside the default judgment is affirmed. In the claim of exemption proceeding, Mendocino Superior Court number CV 81447, the court's decision to deny Slater's request to set aside the sale to Lera and Mendonsa is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

A106921 – Carol Slater v. Vincent Lera et al.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

Friday, April 08, 2005

Division One

A106904 – The People v. Edward Vincent Borja.

Defendant “did not meet the first prong” of requirements for *coram nobis* relief, “the showing of a previously unknown fact.” (*People v. Ibanez, supra*, 76 Cal.App.4th 537, 549.) Accordingly, without a prima facie showing of merit we summarily dismiss the appeal. (*People v. Totari* (2002) 28 Cal.4th 876, 885, fn. 4; *People v. Shorts* (1948) 32 Cal.2d 502, 506-507; *People v. Gallardo, supra*, 77 Cal.App.4th 971, 982; *People v. Kraus* (1975) 47 Ca.App.3rd 568, 575, fn. 4; *People v. Williams* (1965) 238 Cal.App.2d 585, 587-588.) Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Friday, April 08, 2005

The Court reconvened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Margulies, J.; and I. Calanoc, Deputy Clerk.

- A106863 Gwen Rowe-Lee Sykes,
 v.
 Brenda Sykes-Hudson et al.
Cause called and argued by Hab Siam, counsel for appellant, and Thomas French, counsel for respondents. Cause ordered submitted.
- A105457 Traveler's Casualty and Surety Company,
 v.
 Employers Insurance of Wausau.
Cause called and argued by Michael Prough, counsel for appellant, and Kimberly Arnal, counsel for respondent. Cause ordered submitted.

Court Adjourned

Friday, April 8, 2005 (continued)

Division Two

A106553 – The People v. Miguel Edward Mayzes.

The cause is remanded to the trial court with directions to reconsider appellant's sentence in accordance with the views expressed herein. The judgment is otherwise affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

Division Three

A102260 and A103738 – Nicholas Francies v. William Kapla.

Order Modifying opinion and no change in judgment. The Court: It is ordered that the opinion filed herein on March 30, 2005, be modified in the following particulars: (See Order) This modification does not effect a change in the judgment. Corrigan, Acting P.J. (Certified for Partial Publication)

A107045 – In re K.G. et al., Persons Coming Under the Juvenile Court Law. Lake County Department of Social Services v. Robert G.

A108830 – Robert G. v. The Superior Court of Lake County; Lake County Department of Social Services et al., R.P.I.

In the appeal (A107045), the order terminating the father's visitation and reunification services is affirmed. In the writ proceeding (A108830), the petition challenging the juvenile court's order setting a section 366.26 selection and implementation hearing is denied. Our decision is final immediately. (Cal. Rules of Court, rule 24(b)(3).) The request for a stay of the section 366.26 hearing to be held on April 11, 2005, is denied as moot. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication)

Division Four

A104106 – The People v. Shaun Christian Russell.

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

Friday, April 8, 2005 (continued)

Division Five

A107498 – In re Joshua H., a Person Coming Under the Juvenile Court Law. The People v. Joshua H.

The disposition is reversed. The trial court is ordered to enter a new order granting the motion to suppress. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication)

Monday, April 11, 2005

Division One

A104037 – The People v. Kevin Craig.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication)

Division Three

A102786 – The People v. Jesus Santillano.

The Court: Appellant's petition for rehearing is denied. McGuinness, P.J.

A104677 – Angelica DeBode v. Navid Daghigh Bahrami et al.

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication)

Division Five

A106577 – The People v. Robert James Dixon.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

Tuesday, April 12, 2005

Division Four

A106464 – In re J.L., a Person Coming Under the Juvenile Court Law. The People v. J.L.

The order of commitment is reversed and the cause is remanded for that purpose. The order is affirmed in all other respects. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

Division Five

A106429 – In re Alan W., a Person Coming Under the Juvenile Court Law. The People v. Alan W.

The Court: The opinion filed March 21, 2005, is ordered modified as follows: (See Order) There is no change in the judgment. Appellant's petition for rehearing is denied. Jones, P.J. (Not for Publication)

A105039 – The People v. Alfred Oniel Pace.

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

Wednesday, April 13, 2005

Division One

A107282 – The People v. Jose Francisco Macias.

Accordingly, the judgment is modified to impose one section 1202.4, subdivision (b) restitution fine of \$3,200, and one section 1202.45 parole revocation restitution fine of \$3,200, which is suspended unless parole is revoked. The judgment is affirmed as so modified. The superior court is directed to prepare an amended abstract of judgment to reflect the modification and notify the Department of Corrections of the modification. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

A105638 and A106198 – John Garamendi, as Insurance Commissioner, etc., v. Golden Eagle Insurance Company; Kevin Curry et al., Applicants and Appellants.

The trial court's judgment upholding the commissioner's rejection of appellants' claims is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Certified for Publication)

Division Four

A105943 – John Hsu v. California Department of Personnel Administration; California Department of Toxic Substances Control, R.P.I.

The amended order is reversed and the matter remanded for further proceedings consistent with this opinion. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

A106746 – Andrey Todorov v. The Regents of the University of California.

The judgment is reversed. The case is remanded to the trial court with directions to enter an order granting the motion for judgment on the pleadings but with leave to amend the petition, consistent with the views expressed in this opinion. The parties shall bear their own costs incurred on appeal. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

Thursday, April 14, 2005

Division One

A108945 – In re Michael H., a Person Coming Under the Juvenile Court of Law. The People v. Michael H.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication)

A107188 – Terry Curl et al., v. Elso Legey et al.

The order granting the petition to confirm the arbitration award and denying the motion to vacate the award, and the resulting judgment, are reversed. The matter is remanded to the trial court for entry of a new judgment vacating the award. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

A105093 – In re Ghazal B., a Person Coming Under the Juvenile Court Law. The People v. Ghazal B.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

A106863 – Gwen Rowe-Lee Sykes v. Luke J. Moix.

The order granting the anti-SLAPP motion to strike is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication)

A105093 – In re Ghazal B., a Person Coming Under the Juvenile Court Law. The People v. Ghazal B.

A105322 – In re Ghazal B., a Person Coming Under the Juvenile Court Law. The People v. Mahmood B.

The Court: It is ordered that the opinion filed herein on March 16, 2005, be modified as follows: (See Order) There is no change in the judgment. Stein, Acting P.J. (Not for Publication)

Division Two

A104813 – In re Sean D., a Person Coming Under the Juvenile Court Law. The People v. Sean D.

The juvenile court's rulings are affirmed in their entirety. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

Thursday, April 14, 2005 (continued)

Division Three

A104979 – The People v. Freeman P. Griffin.

The order directing defendant to submit blood and saliva samples shall be stricken from the judgment, without prejudice to the right of the People to compel the submission of such samples pursuant to section 296.1, and in all other respects the judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

Division Five

A107635 – The People v. Jose Flores.

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FIVE

Thursday, April 14, 2005

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Stevens, J., Simons, J.; and Richard H. Sandvik, Deputy Clerk.

A105132 Michael H. Clement Corporation et al.,
v.
County of Contra Costa et al.
Cause called and argued by Adam Gruen, counsel for appellant, and Adam Grace, counsel for respondent. Cause ordered submitted.

A106858 Rash B. Ghosh
v.
City of Berkeley.
Cause called and argued by Walter K. Pyle, counsel for appellant and by Zach Cowan, counsel for respondent. Cause ordered submitted.

A105137 Browo Brassworking S.P.A.
v.
Metals Enterprises, Inc.
Cause called and argued by Stephen H. Dye, counsel for appellant, and by Thomas Frieder, counsel for respondent. Cause ordered submitted.

A102829 Soldier Field Partners
v.
City of Lafayette
Cause called and argued by William B. Ross, counsel for appellant, and by Eugene Tanaka, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Simons leaves the bench and Justice Gemello enters.

A106112 In re the Estate of Linda A. Howe
Edward J. Ramos, Jr.
v.
James H. Freise
Cause called and argued by William E. Taggart, counsel for appellant, and by, Brian Healy, counsel for respondent. Cause ordered submitted.

A103989 Tender Loving Things, Inc.
v.
Wendy Robbins et al.
Cause called and argued by Kirk C. Jenkins, counsel for appellant, and by Peter A. Rausch, argued via teleconference, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Stevens leaves the bench and Justice

A106855 Simons enters.
Ken Nelson
v.
Ladbroke Racing Corporation et al.
Cause called and argued by Oliver E. Vallejo, counsel for appellant, and by Guy Stilsen, counsel for respondent. Cause ordered submitted.

A107773 Department of Alcoholic Beverage Control
v.
Alcoholic Beverages Control Appeals Board
Shieffelin & Somerset Co.
Cause called and argued by Miguel A. Neri, counsel for petitioner, and by J. Daniel Davis, counsel for respondent. Cause ordered submitted.

The court recessed until 1:30 P.M.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FIVE

Thursday, April 14, 2005

Court convened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Stevens, Acting P.J., Simons, J., Gemello, J.; and Richard H. Sandvik, Deputy Clerk

A107169 In re Julian P., a Person Coming Under the Juvenile Court Law
Social Services Agency

v.

Hermine P. et al.

Cause called and argued by Aida Aslanian, counsel for appellant, and by Janice L. Amenta, counsel for respondent. Cause ordered submitted.

A105644 Roe 1 et al.

v.

Bijou Group, Inc. et al.

Cause called and argued by Linda M. Toutant, counsel for appellant, and by Robert L. Rusky, counsel for respondent. Cause ordered submitted.

A107630 William Rouse

v.

Operation Dignity et al.

Cause called and argued by William Rouse, appellant, in pro per, counsel for respondent did not appear. Cause ordered submitted.

A107786 Feliz Calano Natnat, Jr.

v.

Paul Valdez et al.

Cause called and argued by Felix C. Natnat, appellant, in pro per, counsel for respondent did not appear. Cause ordered submitted.

Court adjourned at 2:15 p.m.

Friday, April 15, 2005

Division One

A106607 – Douglas E. Freeman v. Palisades Trusts, et al.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Five

A109332 – Huey R. v. The Superior Court of Contra Costa County; Contra Costa County Bureau of Children and Family Services, R.P.I.

The petition is denied on the merits. (Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888 [subsequent appeal challenge barred]; § 366.26, subd. (l)(1)(C).) Given the nearness of the May 4, 2005 section 366.26 hearing, our decision is final as to this court immediately (Cal. Rules of Court, rule 24(b)(3)), and the request for a stay of that hearing is denied. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

A107786 – Felix Calano Natnat v. Paul Valdez et al.

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

Monday, April 18, 2005

Division One

A106440 – In re Donte D., a Person Coming Under the Juvenile Court Law. The People v. Donte D.

The dispositional order is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

A105360 – Estate of Ronald D. Fuller, Sr., Deceased. Ronald D. Fuller, Jr., Special Administrator v. Karen D. Fuller.

The probate commissioner's order is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

A098073, A100745 and A104701 – Margie McRae v. State of California Department of Corrections.

A098330 and A098910 – Margie McRae v. Bruce Wiltse, et al.

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Two

A104598 – Gary Rushford, et al., v. Kaiser Foundation Hospitals, et al.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication)

Division Three

A108488 – International Federation of Professional and Technical Engineers, Local 21, AFL-CIO, et al., v. Superior Court of Alameda County; Contra Costa Newspapers, Inc, et al., R.P.I.

The unions' petitions for writ of mandate are denied. CCN shall recover its costs in this writ proceeding, and may seek attorney fees in the trial court. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Certified for Publication)

A107655 – The People v. Gregory Scott Jones.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication)

A107568 – The People v. Eliseo Ortegon, Jr.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

Monday, April 18, 2005 (continued)

Division Four

A107897 – The People v. Todd Allen Schuetz.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication)

Division Five

A103501 – The People v. John Cunningham.

The judgment is affirmed. Simons, J. I Concur: Stevens, J. (See Concurring and Dissenting opinion by Jones, P.J.) (Not for Publication)

Tuesday, April 19, 2005

Division One

A101953 – In re the Marriage of Colin and Emily Scott. Colin Scott v. Emily Parsons.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

A103878 – Peter T. Mendoza v. Town of Ross et al.

The order of dismissal is affirmed in part and reversed in part. Upon remand, the trial court shall permit Mendoza to amend the allegations in his first amended complaint to state a cause of action under section 11135. In all other respects, the orders of the trial court are affirmed. Each party shall bear their own costs on appeal. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Certified for Partial Publication)

A104713 – The People v. Jesse Garcia.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication)

A106898 – The People v. Ronald L. Whitmire.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

A107042 – In re S.O. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services v. D.S.

The order is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

A108341 – D.S., v. The Superior Court of Alameda County; Alameda County Social Services, R.P.I.

A108342 – S.O., v. The Superior Court of Alameda County; Alameda County Social Services, R.P.I.

The petitions are denied on the merits (Cal. Const., art. VI § 14 *Kowis v. Howard* (1992) 3 Cal. 4th 888 [barring subsequent challenges by appeal]; § 366.26, subd. (1)(1)), and the stay previously imposed by this court is lifted. Given the need to proceed quickly with the .26 hearing, our decision is final as to this court immediately (rule 24(b)(3)). Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Tuesday, April 19, 2005

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Ruvolo, J. and I. Santos, Deputy Clerk.

A103896 The People,
 v.
 Christopher Lee Dial.
Cause called and argued by David D. Martin, counsel for appellant, and Mark S. Howell, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A104772 & In re the Estate of Edward U. Regli, Deceased.
A105254 Michael Muessig, etc.
 v.
 Julia R. Muessig.
Cause called and argued by Alan Goldberg, counsel for appellant. Counsel for respondent was not present as respondent did not file a brief. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P.J., Haerle, J., Lambden, J., and I. Santos, Deputy Clerk.

A106618 Hebrew Academy of San Francisco et al.,
 v.
 Richard N. Goldman et al..
Cause called and argued by Paul Kleven, counsel for appellant, and Michael Cooper, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Justice Haerle left the bench and Justice Ruvolo joined the bench to participate in the remainder of the calendar.

A105382 The People,

v.

Matthew Calloway

Cause called and argued by Jeffrey Glick, counsel for appellant, and Michael O'Reilley, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A108197

People of the State of California ex rel.,
Lake County Air Quality Management District,

v.

Robert Reed.

Cause called and argued by Frear Stephen Schmid, counsel for appellant, and Robert L. Bridges, counsel for respondent. Cause ordered submitted.

A105135

Gloria Garcia,

v.

Richard Bohannon et al.

Cause called and argued by Jordan Sussman, counsel for appellant, and B. Thomas French, counsel for respondent. Cause ordered submitted.

Court recess until Wednesday, April 20, 2005 at 9:30 a.m.

Tuesday, April 19, 2005 (continued)

Division Three

A102803 – Third Eye Blind, Inc. et al., v. Near North Entertainment Insurance Services, LLC, et al.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Five

A106858 – Rash B. Ghosh v. City of Berkeley.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

Wednesday, April 20, 2005

Division One

A104557 – Norman Hopkins et al., v. Superior Boiler Works.

The judgment is affirmed. Defendant is awarded its costs on appeal. Stein, J. We
Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, April 20, 2005

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Haerle, Acting P.J., Lamden, J., Ruvolo, J., and S. Wheeler, Deputy Clerk.

- A106914 The People,
 v.
 Nicholas Leonardos.
Cause called and argued by Lawrence Alan Gibbs, counsel for appellant, and Dorian Jung, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A106853 Velma Levingston,
 v.
 Albertson's, Inc.
Cause called and argued by Howard Moore, Jr., counsel for appellant, and Sean SeLegue, counsel for respondent. Cause ordered submitted.
- A106392 Ken Nolan,
 v.
 Eden Area Regional Occupational Program.
Cause called and argued by Bradley Mark Kass, counsel for appellant, and Nancy Huneke, counsel for respondent. Cause ordered submitted.
- A103128 Hosanna Homes,
 v.
 County Of Alameda Social Services Agency, et al.
Cause called and argued by Harold Selah, counsel for appellant, and Robert Reiter and Robert Marshall Shannon, counsels for respondents. Cause ordered submitted.

COURT ADJOURNED.

Wednesday, April 20, 2005 (continued)

Division Three

A105496 – The People v. John Reese Hendrickson.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

A106828 – The People v. Atef Abdoun Mohamed Abdoun.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication)

Division Four

A108127 – In re Jovon G., a Person Coming Under the Juvenile Court Law. The People v. Jovon G.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

A101437 – Mary Miles v. Sierra Club et al.

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

Division Five

A103989 – Tender Loving Things, Inc., v. Wendy Robbins et al.

The order of the trial court is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

A106208 – In re Crystal D. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Laticia D.

The orders denying mother's section 388 petition and terminating her parental rights are affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication)

A106112 – Estate of Linda A. Howe, Deceased. Edward A. Ramos Jr., v. James H. Freise.

The orders are affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication)

Thursday, April 21, 2005

Division One

A106114 – Otis Duckett v. Housing Authority of the City of Vallejo.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

A106680 – The People v. Michael McCartney.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication)

A108539 – The People v. Jaime Dewayne Lockwood.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

A107043 – In re Brianna R., et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Angelo R.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

Division Two

A107195 – The People v. David Stevens.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication)

Thursday, April 21, 2005 (continued)

Division Three

A107049 – In re Matthew L., a Person Coming Under the Juvenile Court Law. The People v. Matthew L.

The juvenile court's order sustaining the allegation that Matthew made a criminal threat is reversed. The finding that he brandished a knife is affirmed. The matter is remanded with directions to vacate the disposition, dismiss the criminal threat charge and enter a new disposition on the brandishing offense. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

A107838 – In re Edward W., a Person Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Candis W.

The order is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

Division Four

A105255 – The People v. Phillip Evans.

The finding that the 1997 Kings County conviction of violating section 4501 constituted a serious felony (§§ 667, subd. (a), 1192.7) and a strike (§§ 667, subds. (b)-(i), 1170.12) is reversed and the cause is remanded for a limited retrial on these allegations, if the district attorney elects to retry. In all other respects, the judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

Division Five

A107179 – In re R.W., et al., Persons Coming Under the Juvenile Court Law. Contra Costa Bureau of Children and Family Services v. Essie B.

The order is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

A105661 – Louise Levitin et al., v. Thomas Brown et al.

The judgment is reversed. Appellants shall be awarded their costs on appeal. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication)

Thursday, April 21, 2005 (continued)

Division Five

A106743 – In re Sylvia M., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Irma E.

The disposition order is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication)

A105644 – Roe 1 et al., v. Bijou Group, Inc., et al.

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication)

A106643 – The People v. Alvin Burns.

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Certified for Partial Publication)

A107630 – Willaim Rouse v. Operation Dignity et al.

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication)

Friday, April 22, 2005

Division One

A107886 and A109309 – Albert Lee v. Roland Lie, et al.

By the Court: Respondents' motion to consolidate appeals is granted for purposes of briefing, argument and decision. Both case numbers shall appear on all documents filed in this Court. Appellant's consolidated opening brief is due on or before June 21, 2005. Appellant must apply to this court for permission to file a brief in excess of 14,000 words, if necessary. Marchiano, P.J.

Division Two

A104463 – In re Robert G., a Person Coming Under the Juvenile Court Law. The People v. Robert G.

The juvenile court is directed to modify its CYA commitment order staying the additional 4 year 8 month-term imposed for the robbery finding, and reflecting a maximum period of confinement of 19 years. In all other respects, the judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

Division Three

A107291 – The People v. William B. Mitchell.

By the Court: The petition for rehearing and the request for depublication are denied. McGuiness, P.J.

Friday, April 22, 2005 (continued)

Division Four

A105606 and A106609 – Bruce Anderson v. County of Mendocino.

The judgment is reversed. The postjudgment order awarding Anderson attorney fees and costs is reversed. The matter is remanded to the trial court with directions to enter judgment in favor of the County on all causes of action. The County shall recover its costs incurred on appeal upon timely application in the trial court. (Cal. Rules of Court, rule 27(d).) Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

A104820 – Howard L. Churchill v. Donald L. Nelson.

The trial court's orders setting aside the default, default judgment, and wage garnishment are affirmed. Defendant's cross-appeal is dismissed as moot. The parties' motion for sanctions are denied. Plaintiff's motion to enforce California Rules of Court, rule 16(b)(2) is denied. Defendant shall recover his costs on appeal. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

A105331 – In re Jeffrey O., a Person Coming Under the Juvenile Court Law. Solano County Health and Social Services Department v. Jeanne K.

The order denying de facto parent status is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

A108083 – The People v. William C. Rodarmel.

The penalty assessments are reduced to \$340. The trial court shall prepare an amended abstract of judgment reflecting the change and forward it to the Department of Corrections. In all other respects, the judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication)

A105113 – The People v. Richard Roth.

The judgment is modified to reduce the section 1202.4, subdivision (b) restitution fine to \$10,000, and the section 1202.45 parole revocation restitution fine to \$10,000, the latter to be suspended unless parole is revoked. As so modified, the judgment is affirmed. The clerk of the superior court is directed to prepare an amended abstract of judgment and to forward a certified copy to the California Department of Corrections. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

A107280 – The People v. Jesus Sanchez Zepeda.

The conviction is affirmed and the case is remanded to the trial court for resentencing. On remand, the trial court may order a juvenile disposition in lieu of the adult prison sentence "upon a finding that such an order would serve the best interests of justice, protection of the

community, and the person being sentenced.” (Pen. Code, § 1170.19, subd. (a)(4).) Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

Friday, April 22, 2005 (continued)

Division Five

A107626 – The People v. Allegheny Casualty Co., et al.; County of Napa, R.P.I.

The judgment is reversed. The forfeiture of bail is set aside and bail exonerated. The case is remanded for further proceedings consistent with this opinion. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication)

Monday, April 25, 2005

Division One

A103892 and A106864 – In re the Marriage of Terri and William Parker. Terri Parker v. William Parker.

The July 8, 2003 judgment is hereby modified to delete the stated valuation of \$465,000 and substitute the current appraised value of the residence, with the appraisal to be obtained no later than 30 days after issuance of the remittitur in this appeal. As modified, the judgment and the March 10, 2004 order regarding attorney fees are affirmed. The purported appeals from the March 10, 2003 order denying William's Code of Civil Procedure section 664.6 motion, and the February 3, 2003 support order are dismissed as being untimely. Terri is entitled to costs on appeal. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication)

A108454 – The People v. Kenneth Bernard Sullivan.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication)

A105165 – The People v. Jessie Thomas Ivey.

The trial court's sentencing order is vacated. The case is remanded to the trial court for the limited purpose of conducting sentencing proceedings in accordance with the requirements of *Blakely* and this decision. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication)

A104926 – WSM Enterprises, Inc., v. West Coast Property Management Co. et al.

The judgment is reversed to the extent that it fails to grant judgment against West Coast on On-Site's complaint, and fails to reflect any adjudication of the Ricossas' negligence claim against On-Site. The case is remanded to the trial court with instructions to enter a modified judgment (1) adjudicating the Ricossas' negligence cause of action against On-Site on the merits, and (2) granting judgment in favor of On-Site on its breach of contract claim against West Coast consistent with the determination of that claim contained in the State of Decision filed on August 8, 2003. In all other respects, the judgment appealed from is affirmed. Each party shall bear its own costs on appeal. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication)

A107442 – Victor Johnson v. Cahill Contractors, Inc.

The judgment in favor of Cahill is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

Monday, April 25, 2005 (continued)

Division Two

A103315 – The People v. James Thomas Hinkle.

Appellant's sentence is vacated and the matter remanded to the trial court for the resentencing of appellants consistent with the foregoing opinion and *Blakely*. Otherwise, the judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication)

A101381 – The People v. Michael Key, Jr.

The abstract of judgment shall be amended as follows: (1) the two restitution fines, imposed pursuant to section 1202.4, subdivision (b), and section 1202.45, shall be reduced to \$10,000 each; (2) the terms imposed on counts four, five, and six, pursuant to section 12022.7, subdivision (a), are stricken; and (3) the term imposed on count six (§ 211) is stayed. The judgment is otherwise affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication)

Division Three

A102886 – The People v. Ernesto Abordo Espinosa.

The judgment of conviction entered May 14, 2003 is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication)

Division Four

A109006 – The People v. Khamkerd Katiya.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication)

A109364 – Michelle M. v. The Superior Court of Del Norte County; Del Norte County Department of Health & Social Services, R.P.I.

The petition is denied on the merits (Cal. Rules of Court, rule 38.1 (h)(1)) and this decision is final immediately. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

Monday, April 25, 2005 (continued)

Division Five

A105114 – The People v. Lester L. Williams.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

A102829 – Soldier Field Partners, LLC, v. City of Lafayette.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication)

Tuesday, April 26, 2005

Division One

A106558 – The People v. Hugo Brambila.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

A105625, A106230 and A106708 – City and County of San Francisco et al., v. Boyd Hotel, LLC et al.

In A105625, we affirm in part and reverse in part. The judgment is affirmed, except insofar as the trial court declines to consider an award of additional civil penalties under section 17206.1. We reverse that portion of the judgment and remand with instructions that the trial court consider such an award. In A106230, the award of costs to dismissed defendant Dahud is reversed. In A106708, the award of attorney's fees and costs to City against defendants, including the Patels, is affirmed. The City is awarded attorney's fees incurred on appeal. As noted, the trial court awarded City attorney's fees under section 17980.7(d)(1). "Statutory authorization for the recovery of attorney fees incurred at trial necessarily includes attorney fees incurred on appeal unless the statute specifically provides otherwise. [Citation.]" (*Atkins v. Enterprise Rent-A-Car Co.* (2000) 79 Ca.App.4th 1127, 1134; see *Morcos v. Board of Retirement* (1990) 51 Cal.3d 924, 928-930.) Section 17980.7(d)(1) does not specifically provide otherwise, and City is thereby entitled to attorney's fees on appeal. On remand, the trial court shall determine reasonable attorney's fees to City for these appeals. Each party shall bear its own costs on appeal. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication)

A107842 – In re Dwayne T., a Person Coming Under the Juvenile Court Law. The People v. Dwayne T.

The order is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

A103222 – The People v. Howard L. Stroman.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication)

Division Two

A102596 – The People v. Michael Lovely, Jr.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication)

Tuesday, April 26, 2005 (continued)

Division Three

A104983 – The People v. Michael Nathaniel Stewart.

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication)

A107495 – In re Marcus M., a Person Coming Under the Juvenile Court Law. The People v. Marcus M.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication)

A101698, A102668, A103013 and A103987 – In re Brittany K., et al., Persons Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Ellen J.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

A109414 – Marlene D. v. The Superior Court of Solano County; Solano County Department of Health and Social Services, R.P.I.

The petition for extraordinary relief is denied on the merits. (Cal. Const., art. VI, § 14, *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Because the permanency planning hearing is set for June 9, 2005, our decision is final immediately as to this court. (Cal. Rules of Court, rule 24(b)(3).) Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, April 26, 2005

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Kay, P.J. and Reardon, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff. Counsel waive Justice Sepulveda's presence on the bench.

- A105692 People
 v.
 Michael Greenwood
Cause called. Steve Condie argued for appellant Greenwood. Margo Yu argued for respondent. Cause submitted.
- A106345 Ampex Corporation et al.
 v.
 Scott Cargle
Cause called. Certified law student Carl G. Anderson argued for appellant. Michael Prough argued for respondents. Cause submitted.
- A106304 Marco Fontani
 v.
 Wells Fargo Investments
Cause called. Richard Rahm argued for appellant Wells Fargo. Stephen J. Gorski argued for respondent. Cause submitted.

Court recessed at 10:34 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, April 26, 2005

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J. and Reardon, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff. Counsel orally waive Justice Rivera's presence on the bench.

A106653 Fireman's Fund Insurance Company
 v.
 Clarendon Insurance Company
Cause called. Eileen Ridley argued for appellant Fireman's Fund. David Gordon argued for respondent. Cause submitted.

The Court adjourned at 1:49 p.m.

Wednesday, April 27, 2005

Division One

A107103 – In re the Marriage of Xin Lu and Hao Xu. Xin Lu v. Hao Xu; Moon Chia, Respondent.

The order denying sanctions is affirmed. Respondent Chia Moon is entitled to costs on appeal. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Two

A107340 – In re Lamar C., a Person Coming Under the Juvenile Court Law. The People v. Lamar C.

The order of commitment shall be modified to reflect that appellant has an IEP that he has been prescribed psychotropic medication. As so modified, the judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication)

Division Three

A101744 – The People v. Paul Craig Courtois.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

A106760 – City and County of San Francisco v. State of California, et al.; Proposition 22 Legal Defense and Education Fund, Movant and Appellant.

Lancy Woo, et al., v. Bill Lockyer; Proposition 22 Legal Defense and Education Fund, Movant and Appellant.

The order denying the Fund's motions to intervene in the consolidated cases is affirmed. The Fund shall bear costs on appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Certified for Publication)

Wednesday, April 27, 2005 (continued)

Division Four

A109113 – The People v. Lisa Rea Escalante.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

A105759 – The People v. Jerrell Blasher.

The trial court is instructed to correct the abstract of judgment to strike rather than stay the firearm use and great bodily injury enhancement findings relating to the conviction for shooting at an occupied vehicle consistent with this opinion. As modified, the judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication)

Division Five

A104624 – The People v. Dale Lee Herring.

The judgment is reversed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

A107322 – John Westra et al., v. Marcus & Millichap Real Estate Investment Brokerage Company, Inc., et al.

The order denying the petition to compel arbitration filed by MM is reversed. The matter is remanded to the trial court, with instructions to grant the petition. Costs to MM. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

A105137 – Brawo Brassworking SPA v. Metals Enterprises, Inc.

The judgment is reversed, and the trial court is directed to enter a new order consistent with this opinion. Brawo shall recover from Metals its costs on appeal. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

A105772 – The People v. Carleen Marie Hagood.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication)

Thursday, April 28, 2005 (continued)

Division Two

A106871 – Derrick S. Childs v. Donald Neal.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

Division Three

A104361 – The People v. Richard Griffin.

The judgment is reversed and the matter is remanded to the trial court for further proceedings consistent with this opinion. Corrigan, J. I Concur: McGuiness, P.J. (See Concurring opinion by Pollak, J.) (Certified for Publication)

A105370 – Abetu Guale v. Rolls-Royce Engine Services- Oakland, Inc.

The judgment is affirmed. Rolls-Royce shall recover its costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication)

A108106 – John Wheeler v. Oakland Unified School District.

The orders sustaining respondent's demurrer without leave to amend, dismissing the first amended complaint, and denying reconsideration are affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication)

A107770 – The People v. William Smith.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

A102718 – Nick T. Reckas v. Michael Kalashian et al.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

Thursday, April 28, 2005 (continued)

Division Four

A103898 – The People v. Eddie Christian Simon.

The judgment is modified to reflect that the sentence on count VI is stayed pursuant to section 654. The trial court is ordered to issue an amended abstract of judgment reflecting this modification, and to forward a copy of the amended abstract to the Department of Corrections. As so modified, the judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication)

A106360 – The People v. Donald McCovey et al.

The judgments are affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication)

Division Five

A105754 – The People v. Brian Daniel Greskoviak.

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication)

A107169 – In re Julian P., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Hermine P. et al.

The order terminating the parental rights over Julian is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication)

A107361 – Royal Insurance Company of America v. Dil Trust et al.

The judgment is affirmed. Respondents shall be awarded their costs on appeal. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication)

A105912 – The People v. James R. Walker.

The judgment is affirmed. Gemello, J. I Concur: Simons, J. (See Concurring and Dissenting opinion by Jones, P.J.) (Not for Publication)

Friday, April 29, 2005

Division One

A106587 – Gale Wright v. San Francisco Police Officers Association.

The order awarding attorney fees is affirmed. We further grant Wright's request for attorney fees on appeal, the amount to be decided by the trial. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

A106480 – In re the Marriage of Patricia and James Begier. Patricia Strom v. James Begier.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

A108500 – In re Jeni B., et al., Persons Coming Under the Juvenile Court Law. Humboldt County Department of Health and Human Services v. Scotti B., et al.

By the Court*: Respondent's request for judicial notice, filed March 30, 2005, is granted. Respondent's motion to dismiss the appeal, filed March 30, 2005, is granted and the appeal is dismissed. Marchiano, P.J.

*Before Marchiano, P.J., Swager, J., and Margulies, J.

Division Two

A109292 – In re I.G., a Person Coming Under the Juvenile Court Law. Bonnie C. v. San Francisco Superior Court; San Francisco County Department of Human Services, R.P.I.

The petition for writ of mandate is denied on the merits. (§ 366.26, subd. (1)(1)(C); Cal. Rules of Court, rule 38.1(d); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) Our decision is final immediately. (Cal. Rules of Court, rule 24(b)(3).) Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

Friday, April 29, 2005 (continued)

Division Three

A105862 – In re Latrice M., a Person Coming Under the Juvenile Court Law. The People v. Latrice M.

The juvenile court is directed to modify its February 4, 2004 dispositional order to strike that portion requiring Latrice “be committed to Juvenile Hall for 5 weekends at P.O.’s discretion.” As so modified, the order is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication)

A103909 – The People v. Franklin Ryan Jr.

Order Modifying Opinion and Denying Rehearing and no change in judgment. By the Court: The court orders the opinion filed herein on March 30, 2005 modified as follows: (See order) This modification reflects a change in the judgment. Respondent’s petition for rehearing is denied. McGuiness, P.J. (Not for Publication)

A101594 – Steven Rodriguez v. Michael John Saffian.

The judgment is affirmed. Appellant shall bear costs on appeal. McGuiness, P.J. I Concur: Corrigan, J. (See dissenting opinion by Pollak, J.) (Not for Publication)

A104482 – James Quinn, et al., v. Thomas C. McCoy, et al.

The judgment of dismissal is affirmed. The motion for sanctions is denied. McCoy and Pacific shall recover their costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication)

A101409 and A102379 – James Quinn, et al., v. Thomas McCoy.

The appeal in Case No. A101409 is dismissed. In Case NO. A102379, the order awarding fees is reversed to the extent it (1) denied McCoy’s application for fees under section 685.080, and (2) denied his application for fees expended litigating the fee motions. The court is directed to reconsider the request for fees incurred on the fee motions, in light of our discussion in Part 5, *ante*. In all other respects, the order is affirmed. The parties shall bear their own costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication)

Thursday, April 29, 2005 (continued)

Division Four

A105692 – The People v. Michael Greenwood.

The judgment of conviction is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication)

A107956 – The People v. Richard Gibson.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication)

A108752 – The People v. Huy A. Chuong.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication)

A107428 – The People v. Lisa Ann Hackett.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication)

A107525 – The People v. Mark David Maupin.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication)

Division Five

A106855 – Kenneth Nelson v. Ladbroke Racing Corporation and Pacific Racing Association.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

A107773 – Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Board; Schieffelin & Sommerset Co., R.P.I.

The decision of the Board is annulled. The decision of the Department is reinstated and the case is remanded to the Board for further proceedings consistent with this opinion. Gemello, J. We Concur: Jones, P.J., Simons, J. (Certified for Publication)